

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TIMOTHY C. HARRY and KAREN C.
HARRY,

Plaintiffs,

v.

AMERICAN BROKERS CONDUIT, APEX
MORTGAGE SERVICES, FIDELITY
NATIONALTITLE GROUP, AMERICAN
HOME MORTGAGE SERVICING, INC.,
DEUTSCHE BANK NATIONAL TRUST
COMPANY AS TRUSTEE FOR AMERICAN
HOME MORTGAGE ASSETS TRUST 2007-2
MORTGAGE-BACKED PASS-
CERTIFICATES, SERIES 2007-2,
HOMEWARD RESIDENTIAL, MORTGAGE
ELECTRONIC RECORDING SYSTEM, INC.,
OCWEN LOAN SERVICING and KORDE &
ASSOCIATES,

Defendants.

CIVIL ACTION NO. 16-10895

**PLAINTIFFS' MOTION TO STRIKE OCWEN LOAN SERVICING, LLC'S
STATEMENT OF UNDISPUTED FACTS EXHIBITS**

Plaintiffs, Timothy C. Harry and Karen C. Harry, by and through their attorney, hereby submit Plaintiffs' Motion to Strike Defendant Ocwen Loan Servicing LLC Exhibits to its Statement of Facts in support Defendant's Motion for Summary Judgment against Plaintiffs for violations of the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. 1692 et seq. pursuant to Fed. R. Civ. P. 56(a).

Plaintiffs urge the Court to strike the following documents from the record: Exhibit A, the alleged note, Exhibit E, the alleged mortgage agreement, Exhibit G, first of three alleged assignments, Exhibit H, second of three alleged assignments, Exhibit I, Ocwen's alleged

statement of Plaintiffs payment history, Exhibit N, Affidavit of Katherine Ortwerth, Exhibit O, Notice of Intent to Foreclose and Exhibit P, Korde & Associates letter threatening litigation in collection of a debt.

These Exhibits should be excluded because Katherine Ortwerth's Affidavit (Exhibit N) is used in an attempt to substantiate certain factors in Defendant's Statement of Facts as true. These Exhibits need to be excluded as hearsay without any exception. By Ms. Katherine Ortwerth own testimony, she does not work for the Defendant, Ocwen Loan Servicing, LLC and never has, she lacks personal knowledge of Ocwen Loan Servicing, LLC business practices and procedures, she is employed as a Senior Loan Analyst with Ocwen Financial Corp. in its legal department where she spends half of her time in the legal department and half of her time flying around the country being deposed as Ocwen's spokesperson. Her tenure at Ocwen is just over four years. Further her Affidavit does not meet the business records exception to the Hearsay rule because she has no personal knowledge of the record keeping, business practices, times of the writing, preparations of the writing without being informed by someone else.

WHEREFORE, Plaintiffs, for these reasons, pray the Court strike these Exhibits from the record.

Dated: July 20, 2018

Respectfully Submitted on behalf of
Plaintiffs Timothy C. Harry and Karen C.
Harry,

/s/Tina L. Sherwood
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CERTIFICATE OF SERVICE

I, Tina L. Sherwood, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 20, 2018.

/s/ Tina L. Sherwood

Tina L. Sherwood